

# P R O T E S T

OF SOUTHERN SENATORS AGAINST THE

PASSAGE OF THE CALIFORNIA BILL,

IN SENATE, AUGUST 15, 1850,

WITH REMARKS OF

MESSRS. CLEMENS, HUNTER AND DAVIS,

THEREON.

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P R O T E S T

OF THE PENNSYLVANIA DEPARTMENT OF EDUCATION

PASSAGE OF THE CALIFORNIA BILL

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# THE PROTEST

*Against the Admission of California as a State: presented by Mr. Hunter,  
of Virginia, August 15, 1850.*

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Mr. HUNTER presented a protest against the passage of the bill for the admission of California, a copy of which we insert, with the names signed thereto:

We, the undersigned senators, deeply impressed with the importance of the occasion, and with a solemn sense of the responsibility under which we are acting, respectfully submit the following protest against the bill admitting California as a State into this Union, and request that it may be entered upon the journal of the Senate. We feel that it is not enough to have resisted in debate alone, a bill so fraught with mischief to the Union and the States which we represent, with all the resources of argument which we possessed, but that it is also due to ourselves, the people whose interests have been entrusted to our care, and to posterity, which even in its most distant generations may feel its consequences, to leave in whatever form may be most solemn and enduring, a memorial of this opposition which we have made to this measure, and of the reasons by which we have been governed, upon the pages of a journal, which the Constitution requires to be kept so long as the Senate may have an existence, we desire to place the reasons upon which we are willing to be judged by generations living and yet to come, for our opposition to a bill whose consequences may be so durable and portentous as to make it an object of deep interest to all who may come after us.

We have dissented from this bill because it gives the sanction of law, and thus imparts validity to the unauthorized action of a portion of the inhabitants of California, by which an odious discrimination is made against the property of the fifteen slaveholding States of the Union, who are thus deprived of that position of equality which the Constitution so manifestly designs, and which constitutes the

only sure and stable foundation on which the Union can repose.

Because the rights of the slaveholding States to a common and equal enjoyment of the territory of the Union has been defeated by a system of measures, which, without the authority of precedent of law or of the Constitution, were manifestly contrived for that purpose, and which Congress must sanction and adopt, should this bill become a law. In sanctioning this system of measures, this Government will admit, that the inhabitants of its territories, whether permanent or transient, whether lawfully or unlawfully occupying the same—may form a State without the previous authority of law, without even the partial security of a territorial organization formed by Congress, without any legal census or other efficient evidence of their possessing the number of citizens necessary to authorize the representation which they may claim, and without any of those safeguards about the ballot box which can only be provided by law, and which are necessary to ascertain the true sense of a people. It will admit, too, that Congress having refused to provide a government, except upon the condition of excluding slavery by law, the Executive branch of this Government may, at its own discretion, invite such inhabitants to meet in convention under such rules as it or its agents may prescribe, and to form a constitution affecting not only their own rights but those also of fifteen States of the confederacy, by including territory with the purpose of excluding those States from enjoyment, and without regard to the natural fitness of boundary or any of the considerations which should properly determine the limits of a State. It will also admit that the convention thus called into existence by the Executive may be paid by him, out of the funds of the United States, without the



sanction of Congress, in violation not only of the plain provisions of the Constitution, but of those principles of obvious property which would forbid any act calculated to make that convention dependent upon it; and last but not least, in the series of measures which this Government must adopt and sanction in passing this bill, is the release of the authority of the United States by the Executive alone to a government thus formed, and not presenting even sufficient credence of its having the assent of a majority of the people for whom it was designed. With a view of all these considerations, the undersigned are constrained to believe that this Government could never be brought to admit a State presenting itself under such circumstances if it were not for the purpose of excluding the people of the slaveholding States from all opportunity of settling with their property in that territory.

Because to vote for a bill passed under such circumstances would be to agree to a principle which may exclude forever hereafter, as it does now, the States which we represent, from all enjoyment of the common territory of the Union; a principle which destroys the equal rights of their constituents, the equality of their States in the confederacy, the equal dignity of those whom they represent as men and citizens, in the eye of the law, and their equal title to the protection of the Government and the Constitution.

Because all the propositions have been rejected which have been made to attain either a recognition of the rights of the slaveholding States to a common enjoyment of all the territory of the United States, or to a fair

division of that territory between the slaveholding and non-slaveholding States of the Union. Every effort having failed which has been made to obtain a fair division of the territory proposed to be brought in as the State of California.

But, lastly, we dissent from this bill, and solemnly protest against its passage, because in sanctioning measures so contrary to former precedent, to obvious policy, to the spirit and interest of the Constitution of the United States, for the purpose of excluding the slaveholding States from the territory thus to be erected into a State, this Government in effect declares that the exclusion of slavery from the territory of the United States, is an object so high and important as to justify a disregard not only of all the principles of sound policy, but also of the Constitution itself. Against this conclusion we must now and forever protest, as it is destructive of the safety and liberties of those whose rights have been committed to our care, fatal to the peace and equality of the States which we represent, and must lead, if persisted in, to the dissolution of that confederacy in which the slaveholding States have never sought more than equality, and in which they will not be content to remain with less.

J. M. MASON,	} Virginia.
R. M. T. HUNTER,	
A. P. BUTLER,	} South Carolina.
R. B. BARNWELL,	
H. L. TURNEY,	Tennessee.
PIERRE SOULE,	Louisiana.
JEFFERSON DAVIS,	Mississippi.
DAVID R. ATCHISON,	Missouri.
JACKSON MORTON,	} Florida.
D. L. YULEE,	

*Senate Chamber, August 15, 1850.*



## REMARKS OF

# HON. MR. CLEMENS, OF ALABAMA,

*Against the Admission of California, in Senate, August 13, 1850.*

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Mr. CLEMENS. I must ask a few minutes of the time of the Senate to express my opinions on the subject now under consideration. I know, sir, that this bill is to pass; I know that any thing I can say here will have no effect to prevent its passage; and, under these considerations, I had determined to content myself with giving a silent vote against it. Some of my friends, however, have this morning suggested that a few remarks from me might not be altogether out of place.

In obedience to their wishes, I propose to state, rather in the form of a protest than a speech, the reasons why I object to the passage of this bill. Those reasons have been heretofore stated and argued at length by myself and others. I shall do nothing more to-day than recapitulate the main points, reserving for another time and another theatre, any lengthened discussion of topics which cannot now be otherwise than wearisome here.

I object to the passage of the bill because there has been no census taken of the inhabitants, either by Federal or Territorial law, and this Senate has no evidence that at the formation of the Constitution there was a number of free inhabitants within the limits of California sufficient to entitle her to one representative, much less two. I object to it, because no territorial government was ever established in California by law. I object to it because there was no law of Congress fixing her boundaries, and no law authorizing the formation of a constitution and State government. Above all, I object to it because it is the offspring of Executive usurpation. The convention was called together, organized, and completed its sittings under military auspices. That clause of the constitution which prohibits slavery was notoriously adopted expressly to exclude one-half of the States of this Union from an equal

participation in the fruits of a war in which Southern and Northern blood was freely mingled, and Southern and Northern treasure was lavishly expended.

These objections are not now stated for the first time. I urged them long ago. And in all the debate which has followed, I must be permitted to say, they have not been answered. On the contrary, they have been admitted. The force of them, however, is sought to be evaded by the assertion, that, although many irregularities have unquestionably attended the application of California for admission as a State, yet these irregularities may be and ought to be overlooked, in consideration of the extraordinary circumstances of the case. That Congress having failed to provide a government for California, it was the right of the people to establish one for themselves, which we are now bound to recognize. This argument would not be altogether without force, if California and the majority in Congress were the only parties in interest. If the rights of no one else were affected, the majority might atone for a former wrong by dispensing with the usual guards and securities. Such, however is not the case. There are, unfortunately, two interests in this Government—a Northern and a Southern interest. It becomes necessary, therefore, to know which one of these interests perpetrated the first wrong, and which is to be benefitted by that now proposed. If it be true that both sections are equally to blame for refusing to give a territorial government to California, or if it be true that the Southern States alone are guilty, then, sir, we would have no right to complain if that wrong should be urged as an argument against us now. The record, however, shows that such was not the case. In addition to that record, if more were needed we have the published declarations of the senator from New York, (Mr. Seward,



that he himself was mainly instrumental in causing the defeat of the territorial bill. The Northern interest denied a government to California, and now, when they are to be benefitted by the admission of California, this outrage is converted into an argument, and we are gravely asked to assent to the doctrine that two wrongs make a right.

The failure to give California a government was no fault of ours. Upon what principle, then, is the North to be *rewarded* for a sin she did commit, and the South punished for earnestly endeavoring to prevent its commission. Sir, I feel bound to say that Loyola never had more ingenious or more unscrupulous disciples than those who reason after this fashion. A wrong was done to California and to us, in refusing a territorial government. Now another wrong is to be heaped upon us because of the first. The story of the serpegoat, to which we listened not long since, has found its prototype in the history of the Southern people. We have been dragged to the verge of a precipice, and are about to be hurled down backwards, for the sins of others, not our own.

It is necessary that I should refer, here, Mr. President, to a few remarks which were made by the senator from Michigan yesterday, and I regret that the honorable senator is not now in his seat; but as this is the only opportunity which I shall have of adverting to those remarks in connection with this bill, he must pardon me for disregarding the usual courtesy extended to absent senators. He told us, yesterday, that the people of California had a right to establish a government, with or without our consent; that we having failed to establish a government for them, they had an inherent right to establish one for themselves. This, sir, is not the doctrine which I learned from a speech of that senator, delivered a few years ago. I propose to read what were his sentiments in 1847. I read from his speech on what is called the three million bill:

“But no territory hereafter to be acquired *can be governed* without an act of Congress providing for the organization of its government.”

Now, sir, this is precisely my doctrine, and the doctrine of the South. We believe that an act of Congress is indispensable to the government of any territory, and when

we find that no such act has passed in relation to California, we can recognize no government established by those who may happen to be upon her soil as legitimate.

Again, the senator says:

“That is the very first step in its progress, in the new career opened to it. *Till then*, no legitimate authority can be exercised over it.”

Again, sir, I agree with the senator, and I am happy to be able to quote his high authority against the new doctrine of squatter sovereignty which is beginning to pervade the land. The right of a few individuals to seize upon the public domain, and erect themselves into a sovereignty, is something which, in my judgment, cannot be too strongly reprobated. If I had no other reason for opposing the admission of California, this alone would be sufficient, and I might appeal to the senator from Michigan to go with me in that opposition, if he still adheres to the opinions I have quoted.

Mr. President, other senators have spoken of the probable action of the States they represent upon the passage of this bill. I do not know what Alabama may do. That her action will be characterized by wisdom and firmness I have not the least doubt. I am not here to indicate to her what she ought to do. I am the servant, not the leader of her people. Whatever they do, I shall do in despite of Executive menaces, and of all the bloody pictures other hands may exhibit to our view. Born upon the soil of the State while it was yet a territory, we have grown up together. Time after time she has committed her honor and her interests to my hands. Again and again she has trusted and promoted me, and I recognize no allegiance to any power higher than that I owe to her. Whenever she commands I will obey. If she determines to resist this law by force, by secession, by any means, I am at her service in whatever capacity she desires to employ me. If this be treason I am a traitor—a traitor who glories in the name.

I know, sir, that the President, in his late letter to the Governor of Texas, has assumed the right of the Government to coerce a sovereign State. I deny that there is any thing in the Constitution—any thing in the laws, to justify such an assumption. The law is plain and clear—individuals, not States, are the subjects of coercion. If any State should



secede, let him, if he dares, attempt to employ military force to compel her return. He will soon find, in that event, that he has more than one State to deal with, and that the powers and resources of this Government are wholly inadequate to the task he has undertaken. The federal doctrine that all power lodges here has been somewhat widely repudiated, and the denial of State sovereignty, either North or South, can bring to the Executive nothing but contempt.

I hold that my first allegiance is due to my State, and that treason cannot be committed against any power while obeying her mandates. Such opinions have recently been unsparingly denounced, but let me warn those who resort to such weapons, that they may be used by more than one side. There are more traitors than traitors to the Union. Sir, I impugn no man's motives who lets mine alone. I question the purity of no

man's conduct who does not provoke retaliation by assailing others; but when men intimate that obedience to the mandates of my State is treason, they must expect to hear in return that, in my opinion, there are those in this land, and about this capitol, who would sell their souls to Satan for the privilege of having a hand in President making, Cabinet making, and the consequent distribution of the public offices. There are those who would sell their Saviour, were he again upon earth, for half the price that Judas accepted to betray him. Denunciations, sir, are weapons that two can use, and if any one expects to employ them against me with impunity, he miscalculates sadly the character of the man he assails.

I have said all I think it necessary to say. I did not mean to argue the bill here. I shall, if necessary, argue it at home.





## SPEECH OF

# HON. JEFFERSON DAVIS, OF MISSISSIPPI.

*On the Admission of California, delivered in the U. S. Senate, on  
Thursday, August 13, 1850.*

The Senate having under consideration the bill to admit California as a State into the Union, a debate ensued which was necessarily commenced yesterday morning. The question was on the passage of the bill.

Mr. DAVIS, of Mississippi. I do not propose, Mr. President, at this stage of the bill, and in the known temper of the Senate, to enter into any argument upon its merits or demerits. Although there is a wide field of facts not yet explored, it is not my purpose to enter upon it. I feel that it would be useless. More than that; I should fear to expose myself to an exhibition of that restlessness which has on this question marked the majority of the Senate, and which I do not wish to encounter. But I ask why, and among whom, is the spirit of impatience manifested? Does it proceed from a desire to provide a government for California? No, sir, the records deny that. This impatience is most exhibited by those who, at the last session of Congress, refused, unless with the every restriction, to unite with us to give the benefits of a territorial government to California—such a government as was then adapted to their condition; nay, more, such a government as is best adapted to their condition now. Then, sir, among that class of Senators the great purpose of giving a territorial government to the people of California was held subordinate to the application of the Wilmot Proviso to the bill. Then, and for that reason, Congress refused to give the protection to this people which they had a right to expect at the hands of a just Government, and which they had a right to demand under the treaty of peace with Mexico.

Now, sir, when the people inhabiting that Territory have formed a Constitution, one of the causes of which prohibits the introduction of slaves, those who refused to give a government under the circumstances just named, and as we have a right to infer, for the reason stated, are now found most earnest in pressing upon us, in violation of all precedent, its admission as a State into the Union. Then are we not compelled to conclude that their policy, both then as now, was governed by the single desire to exclude slaveholders from introducing that species

of property into any of the recent acquisitions from Mexico? Is that in accordance with the provision of the Constitution, which secures equal privileges and immunities to all the citizens of the several States of the Union? Is it in accordance with the principle of even-handed justice, if there had been no constitutional obligations? These acquisitions were made by the people of the whole United States, and we are bound to remember that those whom this bill proposes to exclude, contributed more than their fair proportion, both of blood and treasure, to obtain that territory? No, sir, the Constitution forbids, justice condemns the course which is pursued, and patriotism and reason frown indignantly upon it. Is it then a matter of surprise that we, the suffering party, have shown resentment and made determined opposition? Is it not rather a matter of surprise that that indignation which has blazed throughout the Southern States should have been received with such calm indifference by the majority of Congress; that Congress has not only refused to listen, but has treated with scorn the appeal which has been made? Such, however, has been the history of this debate.

But if the motive be denied, then I ask, if not for the reason I have given, why are Northern senators pressing with such eagerness the admission of California? Is it to secure a benefit for their manufactures or navigation? No, sir. They know that when the inhabitants of California become a State they will be a people in favor of free trade and that their policy will be to invite the shipping of the world, and secure for themselves the cheapest transportation. It is not then for purposes of their own interest that they seek her admission. Is it to preserve their political rights under the Constitution? No, sir. Now they are in the majority, and they need no addition for such a purpose as that. Then we are forced to conclude that it is for the purpose of aggression upon the people of the South—that it is an exhibition of that spirit of a dominant party which regards neither the Constitution nor justice, nor the feelings of fraternity which bind them to us, but treads with relentless destructive step on all considerations which should govern men, wise, just, and patriotic.

And this, is the evidence of that love for the



Union which is constantly presented to us as a reason why we should abandon the rights, why we should be recreant to the known will of our constituents, why we should disregard the duties we were delegated to perform, and submit to aggression such as freemen have never tamely borne. Is this the way to avoid danger from the indignation which has been aroused; is this the way to avert the danger of disunion, if such danger exist? That indignation, and that danger, so far as it has been excited, is the offspring of injustice, and the duty of self preservation and this is the maturing act of a series of measures which lead to one end—the total destruction of the equality of the States, and the overthrow of the rights of the Southern section of the Union. We, sir, of the South, are the equals of the North by compact, by inheritance, and the patriotic devotion and sacrifices by which the territory from which it is proposed to exclude us was acquired. And when such an outrage excites a manly remonstrance, instead of bringing with it a feeling of forbearance and a disposition to abstain and reflect, it is answered by the startling cry of disunion, disunion! What constitutes the crime of disunion?

This, sir, is a Union of sovereign States, under a compact which delegated certain powers to the General Government and reserved all else to the States respectively, or to the people. To the Union the South is as true now as in the day when our forefathers assisted to establish it; against that Union they have never by word or deed offered any opposition. They have never claimed from this Federal Government any peculiar advantages for themselves. They have never shrunk from any duty or sacrifice imposed by it, nor sought to deprive others of the benefits it was designed to confer. They have never spoken of that constitutional Union but in respectful language; they have never failed in aught which would secure to posterity the unimpaired enjoyment of that legacy which our fathers left us.

Those who endeavor to sap and undermine the Constitution on which that Union rests are disunionists in the most opprobrious understanding of that term; such being the crime of disunion I ask by whom, and how is this spirit of disunion promoted? Not by those who maintain the Constitution from which the Union arose, and by adherence to which it has reached its present greatness; not those who refuse to surrender the principles which gave birth to the Union, and which are the soul of its existence; not those who, claiming the equality to which they were born, declare that they will resist an odious, unconstitutional, and unjust discrimination against their rights. This, sir, is to maintain the Union by preserving the foundation on which it stands and if it be sedition or treason to raise voice and hand against the miners who are working for its overthrow, against those who are seeking to

build upon its ruins a new Union which rests not upon the Constitution for authority, but upon the dominant will of the majority, then my heart filled with such sedition and treason, and the reproach which it brings is esteemed as an honor. But, sir, if gentlemen wish to preserve the constitutional Union, that Union to which I and those whom I represent are so ardently attached I have to say the way is as easy and plain as the road to market. You have but to abstain from injustice, you have but to secure to each section and to all citizens the provisions of the constitution under which the Union was formed; you have but to leave in full operation the principles which pre-existed, created and have blessed it. Then, sir, if any ruthless hand should be raised to destroy the temple of this Confederacy with united hearts and ready arms the people will gather around it for its protection; then, sir, would be indeed a Union of brethren, and not that forced Union which it is sought now to establish and maintain by coercing sovereign States at the point of the bayonet, and reducing the free spirit of the people to submission by the terror of marching armies. By virtue, confidence, by the unpurchasable affection of the people, by adherence to fundamental principles and under the direction of the letter of compact and Union, this republic has grown to its present grandeur, has illustrated the blessings, and taught to mankind, the advantages, of representative liberty. As a nation, it is, though yet in the freshness of youth, among the first Powers of the globe, and casts the shadow of its protection over its citizens, on whatever sea or shore, for commerce or adventure they may wander. When we see a departure in the administration of the Government from the fundamental principles which this Union was founded, and by adherence to which it has thus prospered, we have reason to believe the virtue and wisdom of our fathers have departed from the people, or that their agents are unworthy of those whom they represent.

We stand on the verge of an act which will form an era in the history of our country. Never for the first time, we are about permanently to destroy the balance of power between the sections of the Union, by securing a majority to one of both Houses of Congress; this, too, when a national spirit is rife over the land, and when those who are to have the control in both houses of Congress will also have the Executive power in their hands, and by unmistakable indications have shown a disposition to disregard that constitution which made us equals in rights, privileges, and immunities. When that barrier to the protection of the minority is about to be obliterated, I feel we have reached the point at which the decline of our Government has commenced, the point at which the great restraints which have preserved it, the bonds which held it together, are to be broken by a ruthless



ority, when the next step may lead us to the point at which aggression will assume such a character as will require the minority decide whether they will sink below the condition to which they are born or maintain it by forcible resistance. Such are the momentous consequences which are foreseen as possibly flowing from this act; nor are these forebodings, in any degree moderated, or these injuries at all tempered by the manner in which it is done. They are rather aggravated by the concurrent declarations which have been made; the soaring superiority assumed towards those who are your equals in every constitutional sense; the foretaste which has been given us of the arrogance of political supremacy. This, which has served to create, and which fully justified the extreme opposition exhibited by Southern Senators. I was prepared to go to any possible limit in opposition to this measure, because I felt and feel that the fate of the country might depend upon it, and therefore, as a patriot, as one devoted to the Union, here as readily as elsewhere, I was and am ready to sacrifice myself in such a cause. It is not therefore for want of will, but for the want of power, I have not offered further opposition than I

that temper to which I have alluded, as manifested on this occasion, we are forewarned of the fate of the minority when the South becomes such permanently in both Houses of Congress. In that spirit of aggression and without regard of the rights of the minority, the power is possessed to execute its will. I believe we may see, like the handwriting on the wall, the downfall of this Confederacy. On this occasion, therefore, to my mind, is one which may well justify all the feeling which has been exhibited, and claims of the patriot what sacrifice may be demanded. For myself, moved by such motives, and controlled by public opinion, I required nothing to prompt, nothing to justify, nothing to direct me to the action I have made. But, if I had needed all of these they were at hand in the expressions of popular will, by primary meetings and legislative action. The Legislature of Missouri have instructed me to resist this bill for admission of California, under the circumstances of the case, by all proper and honorable means. The same Legislature made an appropriation of money to enable the Governor to offer proper resistance to the Wilmot Proviso, which could be passed by Congress and approved by the President. And in this bill, as it is proposed, I see nothing in any essential degree different from the Wilmot Proviso. What matter to me whether Congress has declared that within certain limits of the old territory of California slavery shall be prohibited, or whether the act shall give validity to an act of an unauthorized people within that territory, and exclude us from it? If there be any dif-

ference, it would be in favor of the action of Congress; because the injustice and oppression would be the same—certainly no greater—without having added thereto the outrage of a revolutionary seizure of public domain, under the expectation of finding favor by declaring hostility against the extension of the limits of slave property, it would be the fraud or usurpation of an agent, by which we would be deprived instead of the seizure of another subsequently sustained and justified by the agent.

But the effect of an act of Congress would be less permanent; it might be repealed, and might more probably than the provision of a State Constitution, be reversed by the decision of the inhabitants of the territory. It can bring no soothing to me to say the act is that of the people. There was no organized permanent body of persons, such as constitute a people. Those who acted but registered the well known will of the majority of Congress on the subject of slave property, and if their unauthorized acts are approved, breathed into life by this government, it will be because they have served its purpose in excluding the South from equal participation in the territory.

There is a great difference between the organized inhabitants of a territory, a political community authorized by legislative action, and the assemblage, however large and respectable, of an unorganized mass of adventurers. The former could not, without the consent of the United States, erect a State out of the territory of which they were the people, and, unauthorized, assume to themselves sovereign power over it. But if this be doubtful, it cannot be claimed that, without any such organization, without any evidence as to numbers or qualifications, an unorganized band of adventurers can set at naught the sovereignty of the United States, convert the public domain to their own use, and claim therefrom the right to be admitted as a State into the Union; that gold hunters or fur traders, fishermen or trappers, may rush on to newly acquired domain, and for purposes general or special, temporary or permanent, appropriate the territory which belongs to the United States to their own exclusive benefit; or as in this case peculiarly to that of a particular section, with an insulting discrimination against one-half of the people of the Confederacy to whom the territory belongs.

But the case presented to us is even worse than this. The people thus found as sojourners or adventurers on the territory were not themselves the prime movers in this matter. They were prompted to it. It is a fact, sir, which has come to my knowledge, that the military governor who succeeded after the peace of Queretaro sent out messengers to ascertain whether the people of California desired to have a civil instead of the existing military government; and that he received such an answer as



caused him to refuse to issue the proclamation previously prepared. That the proclamation remained until his successor, who issued it, came into power, when, with a few additions and slight modifications, it was sent forth. There had been no material change in the state of the country. It is true there was an additional influx of population, and an additional reason to suppose that a Territorial government would not be provided for them, but the population was as unstable as before, and not much better prepared to support a State government. Under these circumstances, this Governor sent out his proclamation, calling on the people to meet and hold a convention to form a constitution for their own government. The last sentence of the proclamation expressed the hope that it would be acceptable to the people. The paper itself bore internal evidence that it was not the action of the people, but the prompting suggestion of a military governor, claiming to exercise civil authority over them.

I say the case is worse than if the transient inhabitants should, at their own volition, claim to snatch the territory from the United States and appropriate it to themselves. It was not dignified by the impress of popular purpose. If the consequences which are likely to result from this movement were not so grave, we should look upon all the action which occurred anterior to the assembling of that convention, the manner in which the elections were conducted, and in which the ratification of the constitution was expressed, as a farce. In that series of letters, thought to be worthy of being incorporated into a book, written by Bayard Taylor, we are informed that while travelling in one district just before the election, he came near being seized on and elected to the convention *nolens volens*—like Teague O'Regan, the hero of modern chivalry. That which was intended as a satire on our popular elections might here have been verified.

I do not propose to detain the Senate by entering into evidence of that kind. These and graver facts are abundant, but I know it is useless to produce them. My purpose now, Mr. President, is to make a serious appeal to the Senate against the act which there is but little doubt they are about to perform. In the name of equality, of constitutional right, of peace, of fraternity, I call upon the majority to abstain.—

I utter no menace, I foretell no violence; as heretofore, I refuse to contemplate or resort to disunion as a remedy. But, sir, "in sooth rather than anger," at the empty threats which have been made against us: I solemnly warn the majority; they do not look to the South as a source on which victories are to be won without blood and where the emoluments of conquest are obtained without sacrifice. We, sir, are the descendants of those who united with the men of the North in the revolutionary struggle for what was to them an abstract principle; we are the descendants of those who cast behind them all considerations of safety and interest—who met danger in the face, and united with others because they were oppressed. The question is, unless it is believed that we are degenerate descendants of our glorious sires, in that fact should we find a warning against presuming to trample upon the loyalty which, by the sons as by the sires, has been exhibited to the Union. Loyalty is to the Union as established by the Constitution. Sir, they are not bound by mere form that holds the States together. They know their character, and have read their history; with understanding, they would reject the worthless weed whenever the animating spirit of the Constitution shall have passed from the body.

Then, Senators, countrymen, brethren, these, and by other appellations, if the names of others more endearing and impressive to you, these, I call upon you to pause in the career which, pressed by an intemperate zeal, you are pursuing, and warn you, lest blinded by the desire for sectional dominion, you plunge into an abyss in which will lie buried forever the glorious memories of the past, the equally glorious hopes of the future, and the present immeasurable happiness of our common country. It is not as one who threatens, nor as one who prepares for collision with his enemies, but as one who has a right to invoke your fraternal feeling, I guard you against an error which will equally bear on us both; as one who, has shared your hopes and your happiness, and is about to share your misfortunes, if misfortune shall befall it is as an American citizen that I speak to the American Senate—it is in this character that I have ventured to warn you; it is with a fraternal feeling that I make my last solemn appeal.



## REMARKS OF

# HON. MR. HUNTER, OF VIRGINIA,

*Against the Admission of California, in Senate, August 15, 1850.*

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HUNTER. Mr. President, there have been two classes of objections made this morning to the motion of the honorable senator from Tennessee (Mr. *Turney*) to insert this upon the record. One of them, I confess, I did not expect to hear. They were made yesterday, and I expected to hear them repeated, for upon these considerations, as it respects me, depends the merits of the case. In those which relate to the expediency and propriety of permitting a precedent, which might hereafter grow into a usage, in relation to the insertion of protests upon the record. But, sir, for the other, I confess I was not prepared, for it did seem to me that there was nothing in that protest which the President, or any portion of the Senate, could be regarded as a reflection upon their motives or intentions themselves. It is true that we dissent, and dissent strongly, from a measure which has received the assent and approval of other gentlemen; and it is perhaps impossible, on any occasion, to present reasons for dissent which might not by some ingenuity of construction, be tortured into the conclusion of imputing the motives of those who held the opposite side of the issue. We say that we believe these things to be unconstitutional; that we believe that they violate the constitutional rights of our constituents, but we nowhere say that we believe that those who voted for them voted for them with that opinion. It is a difference of opinion which we express, and we do not question in the least degree the motives of any one who may have voted in favor of them, or against them, or abstained from us in relation to this bill. We say that these are our opinions of the expediency of these measures, and for that reason we voted against them; but we have not pretended to impute to other gentlemen bad motives, nor have we pretended to say that they voted for them thinking they would have the effect which we suppose they will have. Now that is the true construc-

tion of it; it is a mere expression of a difference of opinion between gentlemen in relation to this matter. Objections have been taken to particular passages which will be found upon examination not to warrant the construction which has been placed upon them. The senator from Michigan objects to this passage:

“Because the right of the slaveholding States to a common and equal enjoyment of the territory of the Union, has been defeated by a system of measures which, without the authority of precedent, of law, or of the Constitution, were manifestly contrived for that purpose, and which Congress must sanction and adopt, should this bill become a law.”

Now, sir, this clause relates not to a system of measures contrived and adopted here. Far from it. It is elsewhere that such a system of measures has been contrived—in California—partly arising out of the action of the executive branch of this Government, and partly originating with the people there; and we say that we think that Congress, by passing such a law as this, would be adopting and sanctioning that system of measures. We do not say that the gentlemen who voted for the bill thought so. They, doubtless, thought otherwise, but as we entertained these opinions we could not vote for or approve the bill.

Mr. CASS. The honorable senator referred to me I think by mistake.

Mr. HUNTER. I ask pardon of the senator from Michigan; I meant to say the senator from Wisconsin, (Mr. *Walker*.) But, Mr. President, the senator from North Carolina, (Mr. *Badger*,) referred to another paragraph, which he seemed to think the most objectionable. It is this:

“In view of all these considerations, the undersigned are constrained to believe that this Government could never be brought to



admit a State presenting itself under such circumstances, if it were not for the purpose of excluding the people of the slaveholding States from all opportunity of settling with their property in that territory."

And he seemed to think that this clause imputed to every man who voted for the admission of California that intention and purpose. By no means. But it asserts this: that unless there were persons here who did vote from such considerations, united with others who voted for it from other considerations, this bill never could have been passed. I presume that nobody will dispute that there are gentlemen here who voted upon such considerations, and voted conscientiously upon such considerations. I believe they will admit it, and consider it right to sanction any system of measures which excludes slavery, and to reject any system which allows the slaveholding States to extend themselves equally with others. The support of the bill was made up of different parties, of gentlemen acting from different motives.—But this we mean to say, that we believe that but for the influence of the anti-slavery feeling here, a territory presenting itself under the circumstances in which this has been presented, could never have been received as a State into this Union. That is what we mean to say. I might ask the senator from North Carolina if he believes it could have been admitted here, presenting itself under such circumstances, if it had come here with a constitution admitting slavery? I do not ask him as to his own vote, but as to his belief.

**Mr. BADGER.** I have the strongest reason to believe that it would not have been admitted. The honorable senator will understand that I did not undertake to investigate whether the propositions stated there were true or not. I stated precisely that they might be correct. I have my own opinion about that, and he has his, but I intended to be understood that here was a statement as to the motives or reasons supposed to govern one or more, of the whole of the members of this body who voted for the bill, and if the Senate puts that statement on the record, will it not follow that if these gentlemen desire to put their proposition in answer on the record it must be put there also? That was the purpose for which I read the extract.

**Mr. HUNTER.** I shall come to that

presently. I only referred to it for the purpose of showing that it did not necessarily carry with it a reflection on the motives of any gentleman. I believe there are gentlemen here who would take it as a compliment rather than a reflection on their motives, have it said that they had acted on such considerations, and who think it would be doing what was right and proper to act on such considerations. But were far from imputing it to all who voted for the bill, nor is that legitimate inference or deduction from its passage. But, sir, there is another passage to which the senator from Wisconsin (**Mr. WALKER**) objects for the same reasons. It is this:

"But, lastly, we dissent from this bill: we solemnly protest against its passage, because in sanctioning measures so contrary to former precedent, to obvious policy, to the spirit and intent of the Constitution of the United States, for the purpose of excluding the slaveholding States from the territory thus to be erected into a State, this Government in effect declares that the exclusion of slavery from the territory of the United States is an object so high and important as to justify the disregard not only all the principles of sound policy, but also of the Constitution itself."

Well, sir, we were expressing an opinion in relation only to what the Constitution required, and not imputing to those gentlemen who supported the bill, that they voted against their own belief as to the Constitution. We say that for us to have sanctioned the bill would have been to have sanctioned a measure having this tendency and purpose, it is in this point of view that gentlemen should view it in looking into the paper to see whether its contents are respectful or not. But, sir, I submit that the contents of the paper, provided they are respectful, have nothing to do with the question whether they shall go upon the journal or not. No gentleman is responsible for the protest except those who signed it. All they are responsible for in voting for it, is the establishment of a precedent, so far as it makes any, which others can claim similar favors hereafter. Now that is the whole question involved in the controversy, as it seems to me, and I come now to that branch of it. It has been said that because a thing of this sort had never occurred in the sixty years of our experience, we should be cautious not to adopt a precedent which may lead



departure from that practice. Sir, I acknowledge that there is great force and justice in that remark. We ought to be cautious how we depart from our precedents, nor establish anything like new rules, but not because of what occurred at the time of the formation of the Constitution of the United States, to which the senator from North Carolina referred, as that appears to me to have no possible bearing on the case before us. Why, what is it to which he referred? It was a proposition to take from the one-fifth of the Senate the right and privilege of demanding the yeas and nays, and to give them instead the right of dissent and of reading their reasons on the journal. That was the proposition. That was voted down. Nor would it have been a precedent bearing conclusively on this case, if the proposition had been to give to the members of both Houses a constitutional right to dissent, and that had been voted down. Why, I would not vote for it as a matter of constitutional right, thus fixing it inviolably upon Congress, if it should turn out to be inconvenient. I see no sort of objection, however, to vote for a rule, and try the experiment whether it would be mischievous or not. I do not believe it would be found to be so, and I will tell honorable senators why I do not believe it would be so. Because the long experience of the British House of Lords has not shown it to be mischievous, and because we have been told that it has been the practice in many of the State Legislatures, and we have heard nothing of any inconvenience. The senator from North Carolina, (Mr. BADGER) referred to one State yesterday (his own) in which the practice had led to no inconvenience; other senators, those from Pennsylvania and New Hampshire; had referred to their States, where the privilege was thought so important to have been secured in the constitution of these States, and in which it had been exercised without mischief. It seems to me, so, that it is an evil which would speedily correct itself, if it should lead to such abuses as gentlemen speak of. We should have no means of correcting it. In the first place the Senate could correct the evil by the establishment of a rule not to apply to any particular case, but by doing what has already been done during this session, when we wished to strike at a practice which we believed to be wasteful of the time of this

body. By establishing a rule not aiming at any particular instance, but applying to all future cases, we could at any time put an end to the practice, if it should lead to the evil which is anticipated. But in point of fact, the evil would correct itself, for why would any member wish to spread his reasons on the journal? Because, sir, it would give them additional solemnity, and attract to them more attention than any other mode in which he could signalize and give evidence of his opposition to the measure.— But if it became common; if upon every light and trivial occasion protests were spread on the journal, it would be no longer the means of giving additional solemnity to your opposition, or of attracting more of public attention to the resistance that you have made. You then abandon it, as being more troublesome than giving your views to the public through the newspapers of the day, and because it did not give more prominence or solemnity, or importance to your opposition. So that the evil would correct itself, if it should turn out to be an evil. But in point of fact, I do not believe that it would lead to any evil.

I presume that every senator has a sense of self-respect, and no gentleman would get up and endeavor on a light and trivial occasion to invoke a form so solemn as this, for the purpose of attracting notoriety. It would be a sure way to cover himself with ridicule. We could not get along at all, unless that feeling existed amongst the individual members and amongst us as a body; unless some such conservative feeling existed here you could not make rules enough to preserve the order and harmony of the Senate. Members are supposed to have some self-respect, or it would be impossible we could get along with convenience or order here. If, then, this be an evil, it is one, as I said before, which will correct itself, and if it does not do so, the Senate can and will correct it, I have no doubt. In these considerations lies the whole question. I believe that the whole matter to be considered is, not whether the contents of this protest be true or false, not whether the reasoning be well or ill, but whether it will be likely to do harm as a parliamentary precedent. I believe that if we were to establish the precedent it would be productive of good rather than harm. I believe it would be better calculated to content minorities, if you thus allowed them to give



additional solemnly and additional strength to their opposition to measures which may come up, and that they would be better able to go home and satisfy their constituents that they had done all which they could to oppose and resist them. They would be thus able to measure the degree of their opposition, and in cases where there was danger of the establishment of a precedent which might be hereafter mischievous, they might then be better enabled to break the force of that precedent, and in doing so be better able to satisfy and content their constituents at home. In this point of view I believe this measure would have a different effect from that which the senator from Louisiana (Mr. Downs) supposes it might have—that of inflaming the excitement in the popular mind, already disturbed in relation to these matters.

I believe the people of the South would be more apt to be contented if they thought that we had made an opposition to this bill more than usually solemn, more than usually imposing, and better calculated to break the force of the precedent hereafter, than would have been the case if we had used none but the ordinary and common means of resistance. Here is a mode which involves no disrespect to any one, disturbs the peace nowhere, and which, I believe, if it had been permitted, would have had rather a soothing and quieting effect. But, be that as it may, I can assure the senator from Louisiana (Mr. Downs) that there is no ulterior purpose behind the protest. Whatever it means it says on its face, and he can reason on its effects as well as we can. I can assure him that so far as I am concerned—and I believe it is the feeling of every protestant whose name appears on this paper—there is no desire or design to commit either States or any body else to any course of action. There is no appeal to the feelings, and no commitment of the States or any one else to any course of action; but it contains a mere dissent, and the reason for the dissent to the passage of this bill.

Mr. DOWNS. The gentleman will pardon me. He seems not to recollect the precise nature of my remarks. I distinctly disclaimed imputing any such intention to the protestants, but I still thought that that might be the effect of it.

Mr. HUNTER. That is a mere difference of opinion between us—opinions honest-

ly entertained, I doubt not, on both sides.—But, sir, I wish to say here, once and forever, that I never seek and do not hold myself to be authorized to commit my State to any course of action whatever. When and how she will act she will determine for herself—It is for her people to commit her; and not for me. She commits me to action, not I her, and I have pursued the path which she has marked out for me by resolutions adopted almost with perfect unanimity at the last two sessions of her Legislature. That her purpose in those resolutions was grave, I, at least, am bound to believe. I have pursued that path which she has marked out for me, feeling that I had no right to swerve or deviate from it, even a hair-breadth. Sir, if her flag is afloat, she delivered it to the breeze, and if there be anything emblazoned upon it which might be offensive or even menacing, the mottoes and emblazonments are her own. I dare not lower that flag as long as it is placed in my hands to be displayed as the emblem of her honor or the symbol of her rights. If I had the heart, I have not the courage to strike it, unless she bids me do it.

Mr. President, I think the Senate can bear me witness that I have not shown myself an agitator on these subjects. I have never proved myself eager for the fray, or entered into it with the joy of battle. On the contrary, it is painful to me to contemplate these differences. I shrink from them, and I should be glad if I could to avoid them now and hereafter. It is only upon questions of great constitutional rights, in which the safety, peace, and equality of my State are concerned, that I feel bound to come forward and mingle in the debate and join in the contest.

Mr. President, I have no strong individual wish in relation to the motion now pending. When I said that it was an appeal to the courtesy of the Senate, I meant not that we had strong individual wishes, but, that having no right to ask it as a matter of parliamentary privilege, we should be gratified as senators, rather than as men, if it should be the pleasure of the majority to put this protest upon the journal. I have no desire to prolong this debate or to open up discussion. I did not propose, when I came here this morning, to say one word on the subject.